

1 IN THE UNITED STATES DISTRICT COURT

2 DISTRICT OF UTAH

3 CENTRAL DIVISION

4
5 PURPLE INNOVATION, a Delaware)

6 limited liability company,)

7 Plaintiff,)

8 vs.) Case No. 2:20-CV-708RJS

9 RESPONSIVE SURFACE TECHNOLOGY,)

10 a Delaware limited liability)

11 company, et al.,)

12 Defendants.)

13 _____)

14
15 BEFORE THE HONORABLE ROBERT J. SHELBY

16 -----

17 January 6, 2021

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19 Zoom Video Show Cause Hearing

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21 REDACTED TRANSCRIPT

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A P P E A R A N C E S

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1 January 6, 2021

3:00 p.m.

2 P R O C E E D I N G S

3
4 THE COURT: We'll go on the record and we'll call
5 case number 2:20-CV-708. This is Purple Innovation versus
6 Responsive Surface Technology and others.

7 Why don't we take a moment and make our
8 appearances first. Should we?

9 Mr. Magleby, for the plaintiffs.

10 MR. MAGLEBY: Yes, Your Honor. Jim Magleby on
11 behalf of the plaintiff Purple Innovation, L.L.C. Also with
12 me here are Christine Greenwood and Adam Alba of my office,
13 and then we have a client representative, James Larson.

14 MR. JAMES: Your Honor, good afternoon. I am Tom
15 James. I represent the defendants, Responsive Surface
16 Technology and Patientech, L.L.C. Rob Golden, who is my
17 clients' representative, is also here present in the Zoom
18 courtroom.

19 THE COURT: Thank you.

20 MR. JAMES: I should add we have local counsel
21 present as well and she may wish to introduce herself.

22 MS. JONES: Annika Jones also here. Good
23 afternoon.

24 THE COURT: Welcome. Good afternoon, everyone.

25 Let me begin with a reminder that it is unlawful

1 to record federal court proceedings and use them for any
2 purpose. There is one official record of federal court
3 proceedings and it is the one being prepared by our court
4 reporter. What an afternoon it has been and that is going
5 to be the next subject. Anyway, just an admonition that it
6 is impermissible to record these proceedings by audio or
7 video.

8 Let me just say I worked on this case into the
9 evening last night and we had a busy morning this morning.
10 This afternoon, if I am just candid, I became distracted, at
11 least, if not distressed by the events that are unfolding in
12 our nation's capital, and so the comments that I'm going to
13 share with you today are comments that I have been thinking
14 about for the last day or so, at least since receiving
15 Purple's reply memorandum yesterday.

16 I am afraid they won't be as organized or as
17 eloquent as they would have been if I had a little more
18 fortitude and focus this afternoon and I want to start there
19 actually. I am reminded too often that I have come to court
20 on days like today, and I am reminded as we open court about
21 the privilege of our democracy. I'm reminded about the
22 statements that I share with our prospective jurors when
23 they answer their summons to come to court and to serve as
24 jurors.

25 And most relevant probably for purposes of today,

1 in civil cases I talk to our jurors about the Seventh
2 Amendment to the Constitution and the fact that our nation
3 was the first to guarantee to citizens the right to come to
4 court and to have civil disputes peacefully resolved by
5 members of the community and what a rare and extraordinary
6 right that is. We are rightly the envy of much of the world
7 for our commitment to the rule of law. All of you and
8 everyone who comes into this court and courts around the
9 country can expect that their disputes will be decided
10 fairly and impartially according to established rules and
11 laws. It is something that we I think too often take for
12 granted.

13 So turning to the dispute before us today, I would
14 like to take a moment at the outset and see if I can
15 summarize where we are and how we got here and then I have
16 some questions. This is the part that I think would have
17 been more organized and I hope more eloquent had I had a
18 different afternoon, so my apologies and I beg your
19 indulgence and patience.

20 The parties here had a business relationship, for
21 a while at least, and it began to deteriorate or did
22 deteriorate starting in about August of last year. I'm
23 going to have some of the dates a little bit off and some of
24 the time line incorrect I'm sure. My apologies.

25 My recollection from the papers and the briefing

1 on the motion for temporary restraining order was that
2 Purple became aware at some point in August and into
3 September and more so in October about ReST's conduct [XXXX
4 XXX
5 XXX
6 XXX] All of that
7 led to Purple filing suit in October.

8 Purple waited until the Monday before Thanksgiving
9 to file an emergency application for a temporary restraining
10 order. Counsel for ReST observed that at a hearing
11 Wednesday night, the night before Thanksgiving, on an
12 expedited emergency basis as requested by the plaintiff, and
13 ReST's counsel observed that the timing seemed suspect. I
14 said we would go one step at a time and we would see what we
15 learned along the way. We had expedited briefing from the
16 defendants and their counsel, including work over the
17 Thanksgiving holiday I'm sure, to prepare a response to the
18 T.R.O., and we had a lengthy hearing on Friday, December the
19 11th. It was a Friday and we went into the night and the
20 timing of that hearing is the Court's fault, not Purple's
21 fault. It was a consequence of the Court's availability.

22 That T.R.O. sought extraordinary relief from this
23 Court on the basis that the defendant, ReST, and there are
24 two defendants and I just refer to them as one, but was
25 engaging in commercial practices that were likely to cause

1 irreparable injury using Purple's trademark, trade name and
2 brand on its website and in connection with an online
3 marketing campaign in advance of black Friday, which Purple
4 alleged and maintained ReST was also [XXXXXXXXXXXXXXXXXXXXX
5 XXXXXXXXXXXXXXXXXXXXXXXX] and selling product that included the
6 Purple grid, and Purple maintained was purporting to sell
7 product that it did not have to sell and, as a result, was
8 further injuring Purple's goodwill and market reputation.

9 The defendants at our T.R.O. hearing advanced some
10 legal defenses that I did not think were meritorious, and
11 for that reason and for the reasons I explained in a lengthy
12 oral ruling that night, were insufficient to overcome the
13 showing that I concluded Purple had made that it was likely
14 to succeed on [XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX] and
15 its trademark infringement claim. I was satisfied under the
16 circumstances that Purple had shown a likelihood of
17 irreparable harm if the defendants were not enjoined.

18 I ordered on that night, and it was a Friday
19 night, I ordered that ReST bring its marketing into
20 compliance with the Court's order prohibiting the use of
21 Purple's trade name, trademark, brand, and that it stop
22 selling or marketing for sale any products that included or
23 incorporated Purple's product.

24 That order was entered on Friday night,
25 December 11th, and we now know that the defendants

1 immediately undertook efforts to come into compliance with
2 that order, including having employees who, during the
3 holiday season and while traveling, undertook extensive and
4 timely efforts to ensure compliance over the course of the
5 weekend when the defendants did not enjoy access to some of
6 their outside marketing personnel and others. We know that
7 based on the sworn testimony received from ReST and its
8 representatives that it believed it was in compliance by
9 Monday, December 14th.

10 The next day, December 15th, we know that
11 representatives of Mr. Magleby's firm or representatives of
12 Purple, somebody took screen captures of some portions of
13 ReST's website and did some online searches that revealed at
14 least one Google advertisement that Purple believed was in
15 violation of the Court's T.R.O.

16 We now know that for weeks preceding that date,
17 and at least several days after that date, some employees of
18 Purple were accessing without authorization or permission
19 Google advertising accounts for the defendant.

20 I should say both before and at the hearing on
21 Friday the 11th for the T.R.O., the defendants argued that
22 Purple was unable to establish irreparable harm, at least in
23 part, because it had waited to file the emergency
24 application. The defendants again argued that Purple
25 appeared to be engaged in some sharp practices with respect

1 to the timing of that application. And you'll recall at the
2 hearing I addressed that issue in my ruling and we talked
3 about it in oral argument, and I found that while there were
4 delays, I was satisfied, at least at that time, that they
5 were not significant enough or sufficient to overcome the
6 plaintiff's showing of irreparable injury, and I would not
7 withhold the issuance of a T.R.O. merely on the basis of the
8 timing of the filing and the time that had passed since
9 Purple became aware of at least some of the conduct that
10 forms the basis for the application for the T.R.O.

11 So we fast-forward and I think we were on the 15th
12 of December when someone associated with the plaintiff found
13 evidence that it believed revealed the defendants' failure
14 to comply with the language of my temporary restraining
15 order. The plaintiff sat on their hands for eight more days
16 and waited until approximately noon the day before Christmas
17 Eve to file another emergency motion. That is the one
18 seeking an order to show case why the defendants should not
19 be held in contempt for violating the Court's T.R.O.

20 Based on the prima facie showing in the motion
21 submitted by Purple, I was satisfied that it at least
22 merited a response from ReST and, over Purple's objection,
23 concluded that the defendants would be entitled to the same
24 eight days, at least, for their response that the plaintiffs
25 gave themselves before they filed their motion. What that

1 meant ultimately, again, the day before Christmas Eve, was
2 in order that the defendants respond by December 31st, New
3 Year's Eve, which is precisely what they did. It is clear
4 to me from that response that the defendants have undertaken
5 significant and earnest efforts to comply with the Court's
6 orders.

7 I am deeply concerned about the reply that we
8 received from Purple. Let me just say that I appreciate
9 that everyone on this call knows more about this case and
10 the facts of this case than I do. You all know more about
11 this dispute and I am mindful of that and I am always
12 careful about forming opinions or drawing conclusions about
13 things that I don't have personal firsthand knowledge about.

14 I am beginning to form some deep concerns about
15 whether Purple has been operating in good faith in this
16 case, and I come to the bench today at least thinking about
17 whether it would be appropriate and whether I should invite
18 ReST to file a motion for attorneys' fees and costs relating
19 to this motion for an order to show cause or whether, having
20 obtained this injunction in equity, whether I should
21 dissolve the preliminary injunction as a result of Purple's
22 conduct and practices in this case thus far.

23 I am concerned about the timing of the motions. I
24 am concerned about the overall scheme and time line of this
25 dispute, and I'm concerned about the burden that it has

1 placed on the defendants and their counsel. I'm concerned
2 about the tone and tact in some respects taken by Purple. I
3 understand commercial disputes, and I was involved in many
4 of them in private practice and have seen a good number, at
5 least in my years on the bench, so I understand something
6 about the nature of commercial litigation.

7 As I look at the contempt motion before the Court
8 now, it is extraordinary. It is extraordinary. Purple has
9 recommitted itself to this in its reply, to my surprise.
10 Having obtained a temporary restraining order on the
11 strength of its showing that it would likely prevail on its
12 trademark infringement claims [XXXXXXXXXXXXXXXXXXXXXXXXXXXX],
13 it now wants to use the broad language that it supplied to
14 the Court to obtain in its temporary restraining order,
15 broadly referring to intellectual property rights, as a
16 basis for this Court to sanction a party for violation of
17 patent claims that have not been pled or not before the
18 Court for trade dress injuries under the Lanham Act, neither
19 of which are pled, neither of which Purple has attempted to
20 establish with any specificity. And while technically both
21 constitute potentially intellectual property rights and
22 thereby may technically fall within the broad language of
23 the temporary restraining order, were certainly not what the
24 Court and the parties talked about in the briefing and at
25 the hearing on the temporary restraining order.

1 Purple has not come forward with patents, claims
2 that they contend that the defendants are infringing,
3 evidence or any attempt to show patent infringement, and
4 while they argue about trade dress, I was quite surprised,
5 at least in the reply, that Purple didn't come forward with
6 evidence of its trade dress if it was going to advance an
7 argument on that basis. And so I think there is nothing
8 there that I can tell, nothing that would merit sanctions at
9 least.

10 And on the advertising claim, confronted with
11 evidence that its own employees were accessing, without
12 authorization, surreptitiously the defendants' Google
13 advertising accounts for purposes undisclosed during the
14 course of this litigation, and instead of providing any
15 explanation or even a statement that it would investigate,
16 it blames ReST for the advertisements that Purple itself
17 created, as I understand on the evidence before me, that ran
18 this long because Purple's employees didn't have a
19 termination date.

20 I understand from the sworn evidence before me
21 that the defendants were unaware of those advertisements,
22 had no knowledge of them and would have had no reason to go
23 looking for them to take them down in compliance with the
24 Court's order. And when confronted with evidence that its
25 own employees had engaged in what is potentially criminal

1 conduct, I suppose, though I will tell you I didn't look at
2 the statute and I have formed no opinion about that, at
3 least it was unauthorized access to an electronic account,
4 and rather than say that it was concerned and would
5 investigate or find out what happened, it criticized ReST
6 for not supplying more information about Purple's misconduct
7 and, again, invited this Court to sanction the defendants.

8 One moment, please. Just hold on.

9 MR. MAGLEBY: Your Honor, I think he has put us --

10 THE COURT: Sorry. I just needed a moment.

11 Mr. Magleby, I would like to begin with some
12 questions for you.

13 MR. MAGLEBY: Sure.

14 THE COURT: I would like to know whether you,
15 prior to receiving the defendants' opposition memorandum,
16 were aware that any Purple employees were accessing the
17 defendants' Google ad account?

18 MR. MAGLEBY: No.

19 Your Honor, we have submitted the declaration of
20 Rob Towne with the reply, and what Mr. Towne says is his
21 belief is that because these accounts -- you have basically
22 a master account. So Mr. Towne has a master Google ad
23 account and somehow any other permission that you have on
24 Google ads, they all link. So he has got a master account
25 and then there are subsidiary accounts, and what he says in

1 his declaration is that he believes that what that means is
2 any time he signs into his master account to look at Google
3 ads for Purple, as obviously he is allowed to do, that that
4 would trigger a notice or some type of notification to
5 anybody else who is on the account including ReST.

6 But what he also says is if anything had been done
7 to the account or anything had been changed, then there
8 should have been a way, a very easy way for ReST to have
9 captured whatever those changes were or whatever happened.
10 I guess it tracks what happens. He sets that forth in his
11 declaration. He says, you know, certainly none of the
12 lawyers and nobody in management at Purple ever told us to
13 do anything with that account and we didn't know it was
14 active until, you know, we got the declarations from the
15 defendants. I think I have accurately summarized the high
16 points of Mr. Towne's declaration. Having said that, I
17 don't have it in front of me and I am not reading from it.
18 That is my memory of it.

19 THE COURT: I do now have it in front of me and I
20 just found it. It was at the end of the exhibits that I
21 printed. I have looked through it and it was behind the
22 patent that you supplied.

23 Did I miss the reference to Mr. Towne's
24 declaration in your brief? If I did, I owe you at least a
25 partial apology. Is there reference or argument related to

1 the content of his declaration?

2 MR. MAGLEBY: You know, Your Honor, I was not
3 involved in that reply as I should have been, although I was
4 involved. I thought there was.

5 THE COURT: I see it now. I'm sorry. It is right
6 before the conclusion. On page 9 there is reference to his
7 declaration.

8 MR. MAGLEBY: Let me be clear. When I say I
9 wasn't involved as I should, I take complete responsibility
10 for everything that you have talked about in terms of how
11 this litigation has been handled and the decisions that were
12 made. So I in no way mean to throw anybody in my office
13 under the bus. I am the guy and you're talking to the right
14 guy about those concerns.

15 THE COURT: If you become aware, Mr. Magleby, of
16 any clarification that needs to be made to the contents of
17 Mr. Towne's declaration, I presume that you'll notify the
18 defendants promptly.

19 In the meantime, why don't we look forward. I am
20 not, on the record before us, going to hold the defendants
21 in contempt. It is not close. I am disappointed that we
22 all went through this exercise, and while there may have
23 been a basis to file this motion -- one of the things I
24 would have done this afternoon, had there been more time, is
25 try to scour the record to see if I could find evidence of

1 communications between Purple's lawyers and ReST's lawyers
2 about Purple's concerns before you came to court. Knowing
3 what I think I know about you, Mr. Magleby, I presume you
4 tried to address your questions with ReST's counsel before
5 you filed your motion.

6 MR. MAGLEBY: Unfortunately, Your Honor, I am
7 going to disappoint all of us with that. I did not. I can
8 explain and respond to the Court's concerns if that will be
9 useful. At the same time I don't want to dig myself into a
10 deeper hole. However the Court would like to proceed I am
11 happy to proceed. I certainly understand the Court's
12 concerns and I take them very seriously. I don't think I
13 have ever been the recipient of such strong language from
14 the Court, and I am not saying it is not justified, but I do
15 have answers and reasons for all of it.

16 THE COURT: I don't know that it is justified, but
17 the concerns that I have were serious enough that in an
18 interest of transparency, and to try to ensure that we were
19 establishing a good tone going forward, I wanted to share
20 them all with you. I meant what I said when I qualified my
21 comments. Of course I know less about the facts of this
22 case and this dispute than everybody on this call and I am
23 reticent to form opinions about motivations, especially
24 motivations for counsel, and so I am not making a direct
25 allegation of any kind.

1 In fairness I needed to tell you and everyone on
2 this call that I'm beginning to wonder about good faith. I
3 can see, in the early stages of this litigation, signs that
4 are not promising for a commercial dispute in terms of
5 fairly and efficiently resolving the disputes that have to
6 be answered here.

7 I thought about canceling this hearing. I thought
8 about releasing the witnesses in advance of the hearing. I
9 thought about just issuing a short order, and I didn't think
10 I would be doing anyone service if we didn't have this
11 discussion.

12 I have shared my part. I am concerned about where
13 we are and where we are headed and, of course, I'm here to
14 serve you and not vice versa. Let me ask you,
15 notwithstanding what I have said, and I don't want to skip
16 over what you just said a minute ago, Mr. Magleby, and I
17 don't need any further response from you, but, of course,
18 you are welcome to respond if you wish. Otherwise, I think
19 our time might be better spent looking forward and thinking
20 about what is left in front of us.

21 MR. MAGLEBY: I am going to resist the temptation
22 to talk. Like you, Your Honor, I did not -- this afternoon
23 and today has been another crazy day. I thought 2020 was
24 behind us, so I have had a hard time concentrating. I don't
25 think it is going to -- I'm just going to ignore my

1 instincts.

2 So I am going to just say again, everything that
3 you have talked about, at least as far as this litigation
4 goes, is from me, not my client, and if there are concerns,
5 that they are appropriately directed to me as counsel.

6 In terms of going forward, we filed a motion for
7 leave to amend. It was not opposed. That motion does
8 include trade dress and patent claims in it. I fully
9 expected Your Honor would ask me how in the world can I
10 grant an order to show cause based upon claims that are in a
11 complaint that I have not allowed you to file yet. It is a
12 tough answer for me. I had one ready, but given that the
13 Court is denying the motion, I don't think that we need to
14 watch me try to climb that hill.

15 Our plan would be then to file the amended
16 complaint and proceed with discovery. We'll keep a close
17 eye on what ReST is doing, and if we think there is a basis
18 for expedited relief, then we'll come to court with a fully
19 supported, backed by evidence approach, and we'll present
20 that to the Court and to counsel, and we'll not do it at an
21 inconvenient time unless the circumstances make it so that
22 it was impossible for us to do it at any other time. I will
23 give everybody the commitment that I will raise these issues
24 with ReST in advance, unless I think there is going to be
25 blood on the carpet if I do.

1 THE COURT: Fair enough.

2 So everyone here understands my thinking and
3 rationale, while I used the broad language proposed by
4 Purple in the T.R.O., and I think it has been incorporated
5 into the preliminary injunction referring to Purple's
6 intellectual property, that order in my mind was directed
7 and is directed at the use of Purple's trademark, trade name
8 and brand and efforts to sell or market products that
9 include Purple products. It did not contemplate other
10 intellectual property.

11 Mr. Magleby, if it becomes Purple's position that
12 there are other claims that would support injunctive relief
13 of some kind, we're going to have to start with the Rule 65
14 factors, and at least the likelihood of success on the
15 merits of a claim relating to that intellectual property in
16 one way or another. I can't tell you that that is the rule
17 or that it is required. I can just tell you that that is
18 what I'm going to require before I would enjoin anything
19 related to patents, for example, or production of mattresses
20 or anything of that kind.

21 Your motion for leave to amend your complaint, I
22 saw it came in and I saw it was unopposed. We have been
23 preoccupied with other cases. That motion is granted. Go
24 ahead.

25 The only question in my mind is this. I think the

1 briefing is complete now on the motion to consolidate but,
2 candidly, I have not read it yet and so I don't know if
3 we'll have a hearing or if I will resolve that motion on the
4 papers and I don't know how it will be resolved. The only
5 lingering concern in my mind is if the cases are
6 consolidated over ReST's objection we'll have yet another
7 complaint, because we'll have to realign the parties and
8 we'll consolidate the pleadings, but I don't think there is
9 any reason for us to wait on that. We'll go one step at a
10 time.

11 The motion for leave to file the amended complaint
12 is granted. Why don't you file that within the next two
13 days. What is today? Wednesday. By the end of the week --
14 file it by Friday and we'll go from there.

15 Why don't we hold off, though, on a scheduling
16 order, unless there is already one in place, until we decide
17 the motion to consolidate so we don't get the two cases out
18 of step and out of sequence.

19 Mr. James, I have not allowed you a chance even to
20 say hi. You have something that you would like to add?

21 MR. JAMES: I do, Your Honor. Thank you.

22 The parties have exchanged a proposed scheduling
23 order, but if the Court wants us to hold off, we're
24 certainly happy to do that. The reason I was champing at
25 the bit here for a moment is as to the consolidation motion

1 and under Triple A rules, the arbitrator decides what is
2 within the scope. So that would be a decision for the
3 arbitrator to make and potentially something could come back
4 to you, but it might be best not to intermingle the cases if
5 that is looming. I just wanted to make that point.
6 Otherwise, I appreciate all of your comments earlier.

7 THE COURT: I anticipate, Mr. James, that when I
8 scour your opposition to the motion to consolidate, that you
9 have included some argument about that.

10 MR. JAMES: I believe so. I was not on board at
11 the time that was filed, Your Honor, but yes, I believe that
12 that is --

13 THE COURT: We have spoken XXXXXXXXXXXXXXXXXXXXXXXX
14 XX
15 XX
16 XX
17 XX] I am mindful that the
18 other outstanding motion that needs to be addressed is that
19 motion to consolidate. I think the sooner the better
20 probably in view of what you all have in front of you and
21 what you're doing. I can't tell you for sure when we'll get
22 to it, but as quickly as we can.

23 My practice is to require the parties to engage in
24 their discovery without waiting while we resolve preliminary
25 motions and not presume the outcome of those motions, and

1 yet in this case I don't think we'll be long. I think for
2 at least two reasons it makes sense probably for us to
3 figure out whether the cases are going to be consolidated or
4 not and whether one or both will be heard in federal court
5 or somewhere else. Before we get too far into discovery,
6 let's figure out what rules are going to apply and where you
7 will be. I will commit to both of you that we'll try to get
8 to the consolidation motion as quickly as we can. I think
9 that is an indirect way of me ordering a stay in the case
10 until we resolve those issues.

11 I appreciate your feedback, Mr. James.

12 MR. JAMES: Thank you.

13 THE COURT: What else is going on and what else
14 can I do to help?

15 Mr. Magleby? You're thinking I have been plenty
16 of help already. There is no more help of that kind today.

17 MR. MAGLEBY: Not at all, Your Honor. Not at all.
18 This is what we do, and in thinking about what you said at
19 the beginning about the rules we have and that we follow,
20 and advantages and benefits we have with the court system,
21 and this is how we resolve difficult issues and I can't
22 think of anything else.

23 THE COURT: Mr. James?

24 MR. JAMES: I had a lot I was planning to offer,
25 but I don't think we need to at this point. I know

1 Mr. Golden is on the call here representing my client and he
2 was eager to tell you what is going on and we'll have to
3 take that opportunity at some other point in time I think.

4 Thank you.

5 MR. MAGLEBY: Your Honor, just so I understand, I
6 think we're just going to all sit tight, at least in this
7 case, until the Court decides to either set a hearing on the
8 motion to consolidate or gives us other direction.

9 THE COURT: I appreciate you asking that question.
10 I was imprecise in my language. I said a stay and I don't
11 really mean a stay. For example, if ReST wants to file a
12 motion to compel arbitration and if there are other issues
13 that need to be addressed that are legal issues, I am not
14 saying we won't take them up. I mean let's not launch into
15 discovery. Let's not get started down that path until we
16 know where we are headed.

17 Thanks for asking for that clarification.

18 MR. MAGLEBY: Understood.

19 THE COURT: All right. I was sure that there was
20 one more thing.

21 MR. MAGLEBY: The minute we hang up you'll
22 remember it, as will I.

23 THE COURT: Well, I won't keep you any longer than
24 we already have. Counsel on both sides, I appreciate you
25 accommodating expedited briefing schedules and making

1 yourselves available at inconvenient times thus far in the
2 hearing and I appreciate, as always, your prompt attention
3 to these matters.

4 I hope you all remain safe and well in these
5 extraordinary and challenging times.

6 We'll be in recess. Thank you, everyone.

7 MR. MAGLEBY: Thank you, Your Honor.

8 MR. JAMES: Thank you, Your Honor.

9 (Proceedings concluded.)
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